FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

First Appeal No. 82/2007

Appeal	District :
Application No.	of 200
Writ petition	

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : Smt. V. A. Naik, J.
DATED : February 21, 2007.

Heard Shri Sonak, the learned A.G.P. for the appellant-State, and Shri A.D. Dangore h/f Shri P.B. Patil, for the respondent.

By this first appeal, the appellant-State has challenged the judgment and award passed by the Civil Judge, Senior Division, Buldhana, in Land Acquisition Case No. 69/92, thereby enhancing the compensation granted to the respondent from Rs. 6,000/- per acre to Rs. 30,000/- per hectare.

The land admeasuring 1 hectare and 54 Rs, belonging to the respondent was acquired by the State of Maharashtra along with the trees standing thereon, for the purpose of construction of submergence of Torna Tank. Section 4 notification was issued on 5/7/1990 and Section 6 Notification was issued on 25/7/1991. The respondent claimed compensation @ Rs. 60,000/- per acre for the acquired land. The Land Acquisition Officer,

however, granted compensation to the respondent @ Rs. 6,000/- per acre.

Being dissatisfied with the grant of meager compensation, the respondent filed an application before the Collector, under Section 18 of the Land Acquisition Act. The matter was, in turn, referred to the Civil Judge, Senior Division, Buldhana, who, by the judgment and Award dated 20/9/2003, enhanced the compensation to Rs. 12000/- per acre. The aforesaid judgment and Award is challenged by the appellant-State in the instant first appeal.

I have perused the record as well as the impugned Award.

The reference Court has taken into consideration the fact that the land acquired had great potential value and was a fertile land with black soil. The 7/12 extract produced by the respondent shows that the respondent was fetching crops like cotton, gram and jowar from the acquired filed. The witnesses examined on behalf of the respondent stated that there was water facility available to the respondent and the net income from the acquired land was Rs. 50,000/- to Rs. 60,000/-. The reference Court has rightly considered all these aspects. However, the extract of Index Register filed by the respondent showing that 86 Rs land was sold by one Shafiullakha to one

Kisan for a consideration of Rs. 40,000/-, has been rejected by the reference Court on the ground that the respondent did not examine either Shafiullakha or Kisan. Had the said sale instance been accepted, the respondent would have been entitled to the compensation at the rate more than Rs. 12,000/- per acre. However, considering the other evidence, the reference Court has granted the compensation to the respondent at Rs. 12,000/- per acre. The approach of the reference Court in arriving at the aforesaid finding is extremely reasonable. The compensation granted to the respondent is also reasonable.

In view of the above, since the enhanced compensation granted to the respondent is extremely reasonable, the first appeal is dismissed with no order as to costs.

JUDGE

RMP